



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

17-cr-0791 (LAK)

THERYN JONES, et al.,

Defendants.  
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## ORDER

LEWIS A. KAPLAN, *District Judge.*

The Court is in receipt of Mr. Jones' *ex parte* request for reconsideration of the Court's denial of his motion for the appointment of habeas counsel (Dkt 309) and for a 60-day extension to file a potential § 2255 motion (Dkt 311).

For the reasons stated in the Court's previous order, Mr. Jones' request for the appointment of counsel is denied without prejudice, subject to later review by the Court upon submission of a § 2255 motion or some other filing demonstrating likelihood of merit.<sup>1</sup>

Mr. Jones' request for an extension of the one-year statute of limitations for filing a § 2255 motion is denied for lack of jurisdiction.<sup>2</sup> "[A] district court may grant an extension of time to file a motion pursuant to section 2255 only if (1) the moving party requests the extension upon or after filing an actual section 2255 motion, and (2) 'rare and exceptional' circumstances warrant equitably tolling the limitations period."<sup>3</sup> Mr. Jones' request for an extension cannot be construed as a substantive § 2255 motion, and as such the Court is unable to consider his extension request at this time.

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<sup>1</sup>

*See* Dkt 309.

<sup>2</sup>

*United States v. Leon*, 203 F.3d 162, 164 (2d Cir. 2000) ("[A] federal court lacks jurisdiction to consider the timeliness of a § 2255 petition until a petition is actually filed.").

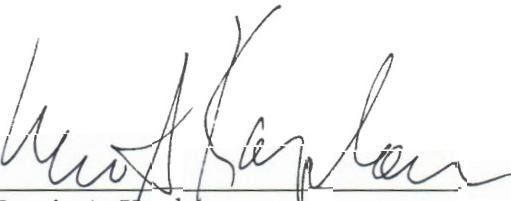
<sup>3</sup>

*Green v. United States*, 260 F.3d 78, 82–83 (2d Cir. 2001); *see also United States v. Minaya*, No. 11-CR-755 (JFK), 2022 WL 3133280, at \*2 (S.D.N.Y. June 30, 2022); *Shaw v. United States*, No. 16-CR-00642 (RJS), 2022 WL 2916324, at \*3 (S.D.N.Y. July 25, 2022).

Mr. Jones is encouraged to submit his § 2255 motion as soon as is practicable, at which point the Court may consider whether he is entitled to any tolling of the one-year statutory limitation.<sup>4</sup>

SO ORDERED.

Dated: May 10, 2024



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Lewis A. Kaplan  
United States District Judge